

Consumer Protection in Islamic Law

A Review of Some Existing Literature

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ABSTRACT

This research paper undertakes review of some of the existing literature on consumer protection in Islamic law available in both English and Arabic languages. In contemporary legal literature there is dearth of solid work on consumer protection from an Islamic law perspective. There is scarcity of exclusive material on the subject of consumer protection especially that expounds Islamic law on consumer protection in a modern context. Recently some of the Muslim writers have started working on the subject of consumer protection as few of such works have been reviewed in the following literature review.

The paper contains a brief introduction, consumer protection in classical Islamic legal literature, consumer protection in contemporary Islamic legal literature, consumer protection in general works on Islamic law and conclusion at the end.

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INTRODUCTION

Islamic law is a communication from Allāh, The Exalted, related to the acts of the subjects through a demand or option, or through a declaration⁽¹⁾. Islamic *Sharī'ah* is derived from the revelation of Allāh which makes it distinct from other legal systems of the world. There are four sources of Islamic law the Qur'ān⁽²⁾, the *Sunnah* of the Holy Prophet Muhammad, (pbuh), *Ijmā'* (*Consensus*), *Qiyās* (analogy). There are four major schools of law in Sunni Muslim legal thought i.e. Malīkī, Ḥanafī, Shafī'ī and Ḥanbalī. The scope of Islamic law is very wide. It covers almost all areas of human interest such as contracts, torts, criminology, international law, administrative law, gifts, wills, pre-emption, trust etc.

Consumer protection and business ethics are amongst the more important aspects of human being's dealings with each other. In Islām, the rights and obligations of an individual towards others are stressed heavily. Where violations occur, the prerogative to forgive or otherwise is vested in the affected individual. Allāh's forgiveness or otherwise in such cases is dependent on the will of the individual sinned against; if he does not forgive, Allāh will punish the defaulter. Therefore, it is imperative for the individuals to deal with fairness in trade and commerce⁽³⁾.

The Holy *Qur'ān* and *Sunnah* embody some very basic and important principles with regard to protection of consumers in commercial transactions. The sources of consumer protection in Islamic law are those of Islamic law itself i.e. *Qur'ān*, *Sunnah*, *Ijmā'* and *Qiyās*, etc. thus, the Islamic guidelines for consumer protection should be derived from the above mentioned sources. However, an Islamic state may develop or adopt some new regulation on the basis of public interest (*Maṣlahah Mursalah*) provided it is not repugnant to Islamic *Sharī'ah*. The *Fuqahā'* after taking guidance from the principles provided by the Qur'ān

and the *Sunnah* developed a comprehensive system of contracts and transactions. The Islamic law of contracts and commercial transactions has become a well-developed discipline now due to their contributions.

CONSUMER PROTECTION AND CLASSICAL ISLAMIC LEGAL LITERATURE

Besides the above mentioned primary sources of Islamic law the classical *fiqh* literature should be consulted in order to understand the views of different schools of thoughts in Islamic law on various issues of consumer protection. In Islamic law, the term “*himāyat ul-mustahlik* i.e. consumer protection” specifically does not appear in these exact terms in the classical books of *fiqh*. Also, the *Fuqahā'* did not mention this term in their writings. However, from a thorough analysis of the primary sources and works of the Muslim jurists it becomes manifest that the Muslim jurists had described the general principles and rules for the protection of consumers in detail in various topics of *fiqh* such as liability (*damān*), contracts (*Uqūd*), fraud (*Tadlīs*), uncertainty (*Gharar*), hoarding (*ihtikār*), law of options (*Khiyārat*), and ombudsman (*Hisbah*) explaining consumer's safety from adulteration, deception, concealment of defect etc. but there is no specific chapter in the classical *fiqh* literature about the protection of consumers in general and product liability in particular. The reason, probably, is that when the general principles of Islamic law are practically implemented the purpose of consumer protection will be automatically served and there will be no need for specific code for the protection of the consumers⁽⁴⁾. This study refers to the principles of Islamic law based on classical sources of *fiqh* that provide solid bases for the protection of consumers.

In this regard, in Ḥanafī School the well-known work of Muḥammad b. Aḥmad b. Abī Sahl Abu Bakar al-Sarakhsī, traditionally known as Shams al-A'immaḥ, an influential Ḥanafī

Jurist, entitled *Al-mabsūt* that is considered to be one of the best manuals of the Ḥanafī School of thought. *Al-mabsūt* is a well-organised manual, covers topics of Islamic *fiqh* in a comprehensive manner and explores points of disagreements thoroughly. This is one of the most influential works in *fiqh* literature and is of great significance in order to understand views of Hanafi School on different issues of consumer protection.

Similarly, the book of well-known Ḥanafī jurist Muḥammad Amīn Ibn ‘Ābidīn (d.1252 A.H.), entitled *Radd-ul-Muhtār* is also very helpful to understand the position of Ḥanafī school of thought. The well-known work *Al-Hidāyah fī Sharḥ al-bidāyat ul-Mubtadī* commonly referred to as *al-Hidāyah* i.e. *The Guidance*, written by Shaykh ul-Islām Burhān ud-Dīn al-Farghānī al-Marghinānī that is considered an authoritative guide to Ḥanafī *fiqh* among Muslims is highly appreciated and widely quoted in this research. The other works in Ḥanafī *fiqh* includes *ḳitāb ul-Khirāj* written by Abu Yusuf, Ya‘qūb b. Ibrāhīm b. Ḥabīb al-ḳufī al-Anṣārī (d.182 A.H.); *Badāi’ ul-Ṣanā’i’ fī tartīb ul-Sharā’i’* written by Al-ḳāsānī, Abu bakr b. Mas‘ūd; *Al-ashbāh wa al-naẓā’ir* and *Al-baḥr ul-rā’iq Sharḥ ḳanz ul-daḳā’iq* written by Ibn-e-Nujaym, Zain al-‘Ābidīn ibn-e-Ibrāhīm (d.970 A.H.) etc.

Moreover, the Ottoman Civil Code (*Majallat ul aḥkām al-‘adliyyah*) that is based on the Ḥanafī school of thought has been frequently consulted. The *Majallat* was compiled by a committee of eminent jurists in the reign of Ottoman Sultān ‘Abdul ‘Azīz Khan in 1867-1877 A.D. The code was operative in courts and remained until the 1950s the Civil Code of Syria, ‘Irāq, Jordan and Palestine etc. It contains numerous provisions related to issues of consumer protection. These above mention works of classical literature in Hanafi School covered discussions on consumer protection in various chapters.

In Shafī‘ī School, the classical sources that should be consulted in any research regarding protection of the consumers

in Islamic law include *ḳitāb al-'Um* written by Imām Al-Shafī'ī, Muḥammad b. Idrīs. Similarly, the books written by well-known scholar Abu ḥāmid Muḥammad b. Muḥammad, Al-Ghazālī (d.505 A.H.) *ḳitāb al-wajīz fī fiqh Madhhab al-Imām al-Shāfi'ī* and *Ihyā' ulūm al-dīn*, have been widely referred to in this work. The other works in Shāfi'ī school that have are referred in this research include *Mughni ul-Muḥtāj*, written by Al-Shirbīnī, Shams ul-dīn; *Al-aḥkām al-sultāniyyah* written by Al-mawardi, Abul-ḥasan 'Alī b. Muḥammad b. Ḥabīb (d.450 A.H.); *ḳitāb Ma'ālim al-Qurbah fī ṭalab al-ḥisbah* written by Ibn al-ukhwwa, Ziā' ul-dīn, Muḥammad b. Muḥammad b. Aḥmad b. Abu Zayd (d.729 A.H.); *Minhāj ul-ṭalibīn* written by Imām Al-nawwawī (d.676 A.H.),etc.

In Ḥanbalī school, the work of Imām Mawaffaq al-Dīn 'Abdullāh b. Aḥmad b. Qudāma al-Maqdisī entitled *Al-Mughnī* that is an authentic treatise on jurisprudence and the most widely known text book of *Ḥanbali fiqh*, should be consulted to understand the viewpoint of *Ḥanbali* school of thought. The other works in *Ḥanbali* school that should also be consulted while doing any research on consumer protection from an Islamic law perspective include *Al-Ḥisbah fī-al-Islām* written by Imām Ibn Taymiyyah, Aḥmad b. 'Abd al-Ḥalīm; *Al-Qawānīn al-Fiqhiyyah* written by Abul Qāsim Muḥammad b. Aḥmad b. Muḥammad b. 'Abdullāh, Al-gharnāṭī (d.741 A.H.); *Al-furūq* written by Imām Al-Qarāfī, (d.684 A.H.); *Al-Ashbāh wa al-Nazā'ir* written by Jalal ul-Dīn Al-Suyūṭī, (d.911 A.H.) ; *Al-muḥarrar fī al-fiqh al madhhab al-imām aḥmad b. ḥanbal* written by Majd ul-dīn, 'Abd ul salām (d.652 A.H.); *Maṭālib 'Uluvv al-Nuḥā fī Sharḥ Ghayāt al-Muntahā* written by Al-Suyūṭī, Muṣṭafā b. Sa'd b. 'Abduhū (d.1243 A.H.) etc. Similarly, the works of Ibn-e- Taymiyyah, *Al-Ḥisba fī al-Islām*, *Al-'ubūdiyyah fī- al-Islām* and *Al-fatāwā* etc. have been widely referred to in this research. The work of Muḥammad b. Abu Bakr (also known as Ibn al-Qayyim) entitled

I'lām al Muwwaqi'īn 'an rabbi al' ālamīn' is also of great help in this regard.

In Mālikī School, the well-known work entitled *Al-Mudawwanah* by Imām Mālik is of great importance in any research from Maliki School perspective. The other works in Mālikī school that should be consulted while doing this research include: *Al-Dhākhīrah* written by well-known Imām Al-Qarāfī (d.684 A.H.); *Al-muwafaqāt fī usūl al-shar'īyyah* written by Imām Al-shaṭībī, Abu Ishāq Ibrāhīm b. Mūsa b. Muḥammad (d.790 A.H.) etc.

The well-known work of Abu Muḥammad 'Alī b. Aḥmad b. Sa'īd b. Ḥazam entitled *Al-Muḥallā'* should be consulted to understand the views of Zahirī school of thought in issues relevant to the area of consumer protection.

CONSUMER PROTECTION AND CONTEMPORARY GENERAL WORKS ON ISLAMIC LAW

In contemporary literature the general works on Islamic law that can be consulted for undertaking a research relevant to consumer protection include *Al-Madkhal Al-Fiqhi Al-'āmm* written by Muṣṭafā Al-Zarqā, *Al-mansūr fī al-Qawā'id* written by Al-Zarkashi; and *al-Wajīz fī Idāh Qawā'id al-Fiqhiyyah al-kullīyyah* written by Muḥammad ṣiddīq b. Aḥmad al-Burnu.

The well-known books *Al-fiqh al-Islāmi wa adillatuhū* written by Dr. Wahba Al-Zuhaylī is of great help to understand various schools of Islāmic law on an issue. Similarly, Dr Zuhaylī's book entitled *Nazāryiat ul ḍamān* is a very comprehensive book on Islamic law of torts. The book has given the concept of tort in Islamic law in a very comprehensive and detailed form. This work has been frequently consulted while working on product liability under Islamic law of torts.

Similarly, the book entitled '*Economics of Liabilities: An Islamic View*' written by Monzir Kaḥf in English language is of great significance in this regard.

One of the most valuable works that focused on Islamic business ethics is that of Rafiḳ Issa Bekun entitled *Islamic Business Ethics*⁽⁵⁾. The book addresses the ethical aspects of business from an Islamic point of view. The author has presented key principles of management from an Islamic perspective. The book has embarked on issues like lawful and unlawful behaviour of the businesses and consumers and organizational behaviour within an Islamic framework. The book has attempted to prescribe punishments in Islamic law for unethical behaviour. Overall it is a great piece of work and one can benefit a lot from this book while doing any research relevant to consumer rights..

Another book entitled *Understanding Islamic Finance* written by Muḥammad Ayūb⁽⁶⁾ is very much beneficial to understand the *modes operandi* of Islamic commercial and financial institutions. The book has covered almost every aspect of Islamic finance and Islamic commercial law. It has been consulted on various occasions for understanding the contemporary applications of modes of Islamic finance. The book has solid material in a well-organized manner. However, the area of consumer protection in general and product liability in particular is not the main concern of the book. Therefore, nothing has been found in solid and concrete form on the topic.

The valuable work that has been frequently consulted while doing this research is *Business Ethics in Islām* written by Mushtāq Aḥmad⁽⁷⁾. This is actually an edited version of Mushtāq Aḥmad's thesis which he wrote under the supervision of the late Professor Ismā'īl al-Farūqī and submitted to Temple University in partial fulfillment of the requirements for Ph.D. under the title "Business Ethics in the Qur'ān". The book contains valuable material on the subject of business ethics in Islam properly

decorated with arguments from Qur'ān and Sunnah. The book has thoroughly highlighted the ethical aspects of business from an Islamic perspective. It has been consulted to understand the Qur'ānic view towards business and ethics.

The well-known book written by S.M. Yusuf entitled *Economic Justice in Islām* is a very concise and a remarkable work on Islamic economic justice. The author has covered almost each and every aspect of Islamic economics in the light of Qur'ān and *Sunnah*⁽⁸⁾.

The book written by well-known scholar of Islām Mawlāna Muḥammad Taqī 'Uthmānī entitled 'An Introduction to Islamic Financ⁽⁹⁾, has presented all the modes of Islamic finance in a concrete and precise form. However, the topic of consumer protection is not the main concern of the book rather it gives an introduction about the main modes of Islamic finance and Islamic commercial law.

The books written by Imran Aḥsan Khan Nyazee, 'Islamic Law of Business Organization: Corporations' and 'Islamic Law of Business Organization: Partnership' are remarkable works and extremely beneficial to understand the salient features of Islamic commercial law. The main focus of the author is to develop an Islamic form of the modern corporations that would be free of *ribā* and of other infractions of Islamic principles from which the current forms of business organizations suffer. As *riba* is one of a major consumer problem hence these works give suggest those forms of business organization that are free from *ribā*.

Moreover a valuable article is written by 'Abdul Baṣīr Moḥammad entitled 'The "Egg-shell Skull" Rule in Cases of Nervous Shock in Islamic Law of Tort⁽¹⁰⁾, is also very useful in order to understand the concept of Islamic law of tort. The research paper has analysed the "egg-shell skull rule" i.e. is a rule that bears or shoulders upon a person the liability for all injuries resulting from his acts leading to such injuries to another person

regardless whether they are foreseeable injuries or unforeseeable injuries. The focus of the paper is to analyse the rule in the light of Islamic jurisprudence in the context of nervous shock. The paper found that the rule is not a strange one to Islamic law however the Muslim jurists have not described it in a specific term in their works.

CONTEMPORARY LITERATURE ON CONSUMER PROTECTION IN ISLAMIC LAW

As far as the contemporary literature on Islamic law is concerned that has covered various aspects of the consumer protection there are some good books and articles that should be consulted while doing any research work related to this particular area of law.

In this regard, the book written by Muwāffiq Muḥammad ‘Abdu entitled ‘*Himāyat ul Mustahlik fī al-fiqh al-Iqtisād al-Islāmi: Dirāsāt Moqāranah* i.e. Consumer Protection in Islamic Commercial Law: Comparative Study⁽¹¹⁾. This is a remarkable book in ‘Arabic language on the subject of consumer protection in Islamic commercial law. The book has covered a range of topics on the subject and tried to develop an Islamic theory of consumer protection. The book constitutes on three parts. In part-I, the meaning, scope, objectives and procedures of consumer protection etc. have been properly discussed. Part-II explains the Islamic perspectives on production and consumption. The most significant part of the book is part-III that analyses the tools and methods of consumer protection from an Islamic point of view. I have benefited to great extent from this book however there is nothing specifically addressing the issue of product liability from an Islamic law perspective neither comparing the same with any other legal system of the world.

The book written by Sayyid ‘Ārif ‘Alī Shah entitled *Sharī‘ah Ḥalāl* Standards for Edibles, Beverages, Medicines and

Cosmetics (Urdu language) is an interesting work and is of great significance to form views about various consumer products from an Islamic law perspective⁽¹²⁾. The book has provided detailed standards on *ḥalāl* consumer products and it is equally useful for the consumers, researchers, Muslim scholars, ‘*ulamā*’ and legislators etc.

A number of valuable research articles were presented by renowned Muslim scholars in International conference on “*Consumer Protection in Sharī‘ah & Law*” conducted by the Faculty of *Sharī‘ah* and Law of United Arab Emirates University from 6-7, December, 1998. Some of these research papers are of great significance in the area of consumer protection.

In these research papers, the paper on “Consumer Protection in transactions advertised through television”⁽¹³⁾ presented by Prof. Dr Jathim ‘ali Sālim al-Shamsi, chair of the Civil Law Department at the United Arab Emirates University, in Arabic language, has discussed the innovative nature of these transactions and its usage for the acquisition of different kinds of goods and services that is intended for private consumption. The paper then suggests different tools for the protection of consumers in these contracts. In this regard, the author refers to the Islamic notions of *Khiyār ul-‘Ayb*, *Khiyār ul-Waṣf* and *Khiyār ul-Shart*, *Khiyār* etc. as it is pointed out that the subject-matter is not present before the consumer at the time of the contract. Therefore, it is necessary to reserve these options. Then the paper discusses the nature of such transaction from Islamic law perspective and concludes that such contracts are non-binding on the consumers and he may have some time to revoke them. The paper is concluded with recommending simple procedure at the event of disputes between consumer and the seller. The research paper is well-written and innovative in its nature. It is evident from the title of the research paper that it is limited to the study of the Transactions made through television from Islamic law

perspective. It has no concern with other aspects of the consumer protection in *Sharī'ah*. It is also not a comparative study of *Sharī'ah* and law on the subject.

Another research paper entitled “*The Role of Islamic Sharī'ah in Consumer Protection*” written by Prof. Dr. Ḥamd ‘abīd al Kaysī⁽¹⁴⁾. The research paper is in Arabic Language. It explains the role of Islamic *Sharī'ah* in consumer protection and has focused on some important aspects of *Sharī'ah* through which it has guaranteed protection of consumer rights. First of all, the paper explores the importance of training of consumers for rational consumption in accordance with *Sharī'ah*. *Sharī'ah* provides that a person should neither be a miser nor spendthrift rather moderation in consumption is highly encouraged by Islamic *Sharī'ah*. The second way through which *Sharī'ah* insures protection of consumer rights in the concept of Sin (*Ithm*). Thus, practices such as giving short weight, adulteration, hoarding, concealment of defects, fraud and misrepresentation etc. are declared as sin by *Sharī'ah* and a believer is commanded to avoid committing such unfair practices. As all the people in a community are not pious, therefore Islamic *Sharī'ah* has also provided a punitive system to punish those who harm the consumers. For this purpose the institution of *Ḥisbah* is devoted. The paper has also discussed that to protect consumers’ rights Islamic state can provide punishments as *Ta'zīr*. The paper is a great piece of work and it has briefly covered many aspects of consumer protection in Islamic *Sharī'ah*. However, it has not covered the topics in detail and many other aspects such as Consumer protection in transactions; Sale or Hire, is not discussed at all. Secondly the paper is too much precise and the role of Islamic state and its other institutions such as ‘*āmil-Sūq*’ etc. has not been discussed. However, the paper has helped me in developing my thesis on the topic.

Similarly, the paper of Prof. Dr *Maḥmūd Aḥmad Abu Layl* on the topic of “*The Status of Price Fixation in Islamic Sharī‘ah*”. This paper is in Arabic language. It has analysed the issue of price-fixation by the ruler for public utility and safeguarding public interest at large⁽¹⁵⁾.

Prof. Dr *Qasim ‘Abdul-Ḥamīd Al-Watīdi* in his paper on the topic of “*Islamic Sharī‘ah as a Basic Source of Consumer Protection*” highlighted the importance of Islamic *Sharī‘ah* as a source for the consumer protection legislation⁽¹⁶⁾. The paper is in Arabic language. It has mentioned number of verses of the Holy Qur’ān and traditions of the Holy Prophet (pbuh) to pinpoint that Islamic *Sharī‘ah* carries a huge number of commandments for the protection of consumers.

Prof. Dr *Khalīfah Babakar al-Ḥasan*, in his paper on the topic of “*Consumer Protection in Islamic Sharī‘ah*”, covers the Islamic *Sharī‘ah*’s view on consumer protection and claims that though it is a new term but its rules and principles are contained in the verses of the Holy Qur’ān and *Sunnah*⁽¹⁷⁾. The paper then analyzes rights of the consumers from the perspective of objectives of *Sharī‘ah* i.e. *ḍarūriyāt*, *Ḥajiyāt* and *Taḥsīniyāt*. The gist of the discussion is that *Sharī‘ah* has a great regard for the protection of consumer’s rights. The paper is unique as it has mentioned some verses of the Holy Qur’ān and traditions of the Holy Prophet that provide evidence for not causing harm to the consumers. The paper has also discussed the methods of Islamic *Sharī‘ah* for the protection of consumers’ rights. In this regard the paper reveals that preventive measures have been described by *Sharī‘ah* in order to avoid violation of consumers’ rights. *Sharī‘ah* has also mentioned punishments for violating consumer rights. The paper discusses hoarding, *Ribā*, *ṭalaqi’ ur ruḵbān*, *Bay’ ul Ḥaḍir li bādī*, and their negative impact on consumer rights and *Sharī‘ah* stance on it. The paper has also explained the importance of price fixation for consumers and the debate of

Muslim jurists on it is reported. The research paper has also discussed the importance of the institution of *Hisbah* in consumer protection as the regulating authority of the Islamic state. In this paper the author is providing jurisprudential basis for the concept of consumer protection in Islamic *Sharī'ah* as it has looked to the matter from the perspective of objectives of *Sharī'ah*. Some verses, traditions and legal maxims are also quoted in the paper.

The research paper written by 'Abd-ul-Sattār Ibrāhīm Al-Haythī; *ḵulliyah Tarbiyyah, Sahhar, The Sultanate of Amman*⁽¹⁸⁾, on the topic of "*Himāyat ul-Mustahlik fī al-Fiqh al-Islāmī*" i.e. Consumer Protection in Islamic Fiqh" in Arabic language, is a great piece of work on consumer protection in Islamic law and economics. The research paper has discussed four major issues concerning the topic; Patterns of Consumption in Islamic *Sharī'ah*, Harms affecting consumer due to lacking of regulations, *Al-Hisbah* the Islamic tool for regulating the business and its role in the protection of consumer rights and at the end the role of other concerned bodies are discussed. The author has consulted the Holy Qur'ān, *Sunnah* and classical *Fiqh* literature while writing on the topic. The paper has pointed that Islamic law preceded to protect rights of the consumers when compared with any other legal system as Consumer International was formed in the 20th century while the Institution of *Hisbah* was devoted to the cause of safe production, supply and consumption 1000 years ago.

The article by Ḵishwar Khan and Sarwat Aftāb entitled "*Consumer Protection in Islam: The Case of Pakistan*"⁽¹⁹⁾, is written in English language and it is a great introductory work on consumer protection in Islam. The article is well-written. It explains that consumers whether in an Islamic State or otherwise face similar problems that need to be taken care of by the government and the individuals themselves. Islam as a religion gives a comprehensive framework for conducting business and

protecting the consumers' rights. Apparently, this framework seems similar to the commercial laws but glaring differences between the two exist: commercial laws are relatively new phenomena and are made by humans for the sake of convenience only. The writer asserts that Islamic law has provided such guidelines fourteen centuries ago which are based on divine principles set by Allāh. Moreover, there is no reward in complying with the commercial laws but Allāh promised the believers rewards both in this world and the Hereafter for complying with Islamic principles. The research paper has given special reference to the case of Pakistan as an Islamic state and identified that the area of consumer protection has remained neglected in this part of the world. The research paper analyzes the feasibility of creating an environment in Pakistan whereby the interests of consumers are best protected under the teachings of Islām. The Qur'ānic principles are delineated with reference to guidelines for Muslim businessmen and consumers; the role of state and institutions⁽²⁰⁾.

The research paper written by Salvatore Mancuso; professor of comparative law, university of Macau and Attorney at Milan Bar entitled "*Consumer Protection in E-commerce Transactions: a First Comparison between European Law and Islamic Law*", written⁽²¹⁾ is well-written and a good effort to compare between the European and Islamic Laws on the subject of Consumer Protection in E-commerce transactions. The author explains the concept and importance of E-commerce in the modern time. In the context of electronic transactions the author highlights the need of consumer protection at the highest level. The author has analysed the European Law approach in this regard and then comprehensively looked at the issue from an Islamic law perspective. The author has discussed the notion of E-Commerce in the light of Qur'ān, *Sunna* and views of the Muslim jurists. The paper is concluded with the observation that there is not much

difference between the two legal systems, except that the European law approach is a bit detailed, on the subject. The research paper, as it appears from its very title, addresses the issue of consumer protection in a narrow area of E-commerce and it has not discussed the concept of consumer protection in detail. The study is based on the comparison between the European and Islamic laws related to protection of consumers in E-commerce.

The research paper written by Maḥmūd Fayyād on '*The Transposition of the European Directive 85/374/EEC on Product Liability into Palestine and Jordan: Is it Adaptable to Islamic Law?*'⁽²²⁾; is one of the most authentic works of its kind that has looked into the EU Directive on product liability from the perspective of Islamic law. Moreover, the article has analysed the feasibility of adaptation of the same laws in Muslim jurisdictions of Palestine and Jordan.

There is another valuable research paper entitled 'The application of the Khiyar al-‘Aib (option of defect) principle in on-line contracts and consumer rights' written by Parviz Bagheri and Kamal Halili Hassan⁽²³⁾. The research paper evaluates the protection of consumers in online contracts from the perspective of Islamic law. In this regard, the paper argues that the Islamic notion of Khiyar al-ayb is of great significance and would be helpful in protecting consumer rights in virtual world. The research paper has attempted to explore the Islamic principles by taking Iranian laws as well as the European law as a point of reference

CONCLUSION

As discussed above the Muslim scholars have started paying attention to this important area of law, however, still no sufficient literature is available on the subject of consumer protection in Islam especially that tries to contextualize it in modern context. The jurisprudence of consumer protection is

growing day by day. Today, it covers various areas such as consumer redress, holiday laws, consumer insurance, consumer finance, unfair terms in consumer contracts, food law, regulation of marketing, advertising and sales promotion practices, trade descriptions in relation to goods, mis-descriptions of services and property, misleading price indications, service liability, sales promotion and institutions and policies of consumer protection etc. There is an immense need to look into each and every of these aspects of consumer protection from the perspective of Islamic law and jurisprudence. The scholars can also work on comparison of these aspects among different regimes. Similarly, there is dearth of researches on the development of models of consumer protection legislation based on the solid principles of Islamic law that also fulfill the needs of a modern day consumer. Moreover, there is also need to work on the review, examination and analysis of the already applicable consumer laws in Muslim countries in the light of United Nations Guidelines for consumer protection and Islamic law.

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2. The eternal and original sources of Islamic law are the Holy Qur'ān that Allāh communicated through the Prophet (pbuh) for the guidance of mankind. These messages are universal, eternal and essential. *Sunnah* refers to the exemplary conduct of the Prophet (pbuh). The Prophet (pbuh) has been declared to be interpreter of the Qur'ānic text. The Qur'ān for instance mentions *Zakāh* but does not lay down its details; the Prophet (pbuh) explained it to his followers in a practical form. *Ijmā'* i.e., the consensus either of the community or of the religious scholars is a principle of new legal content that emerges as a result of exercising reason and logic in the face of a rapidly expanding society.
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